IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No.18594 of 2006

Date of Decision: 23.11.2006

Dharam Singh ... Petitioner

Versus

State of Punjab and others. ... Respondents

CORAM : HON'BLE MR. JUSTICE J.S. KHEHAR,
HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. R.K. Arora, Advocate,
for the petitioner.

J.S. Khehar, J. (Oral)

While the petitioner was conducting Bus bearing registration No. 9626 from Ambala to Jalandhar, the same was checked by the Inspectors from the office of the Director, State Transport, Punjab, on 23.08.2002. During the course of checking, it was found that the petitioner had taken a sum of Rs.79/- from one of the passengers as fare, but had not issued a ticket to him for the said amount. The ticket issued to him was for lesser fare. The passenger, who was travelling with the ticket for lesser fare asserted the aforesaid factual position, in the presence of the petitioner. The petitioner, after admitting the same, issued the aforesaid passenger an un-punched tickets for a sum of Rs. 44/-, in lieu of the balance fare.

On account of the aforesaid factual position, the petitioner was issued a charge-sheet on 6.09.2002, whereupon, a regular departmental enquiry was held against him. Consequent upon the holding of a regular departmental enquiry, the punishing authority, i.e., the Director, State Transport, Punjab, by an order dated 20.7.2005 ordered the compulsory

retirement of the petitioner with immediate effect.

The aforesaid order dated 20.7.2005 (Annexure P-9) is subject matter of challenge at the hands of the petitioner.

The solitary contention of the learned counsel for the petitioner is, that the onus to establish his innocence was formally placed on the shoulders of the petitioner. In this behalf, the vehement contention of the learned counsel for the petitioner is that in the first instance, the onus to prove the guilt of the employee has to be discharged by the employer.

It is not possible for us to accept the aforesaid contention of the learned counsel for the petitioner, particularly in the background of the facts, as have noticed herein above, namely, that when the petitioner was confronted with the passenger travelling with a ticket for lesser fare, he had acknowledged, that he had taken a sum of Rs.79/- but issued him tickets for Rs.35/-. Since aforesaid factual position was not contested by the petitioner, it does not lie in the mouth of the petitioner, that the onus to prove his innocence was placed on his shoulders.

In view of the above, we find no merit in the claim raised by the petitioner in the instant writ petition.

Dismissed.

(J.S. Khehar)
Judge

November 23, 2006
vkd

(S.D. Anand)
Judge